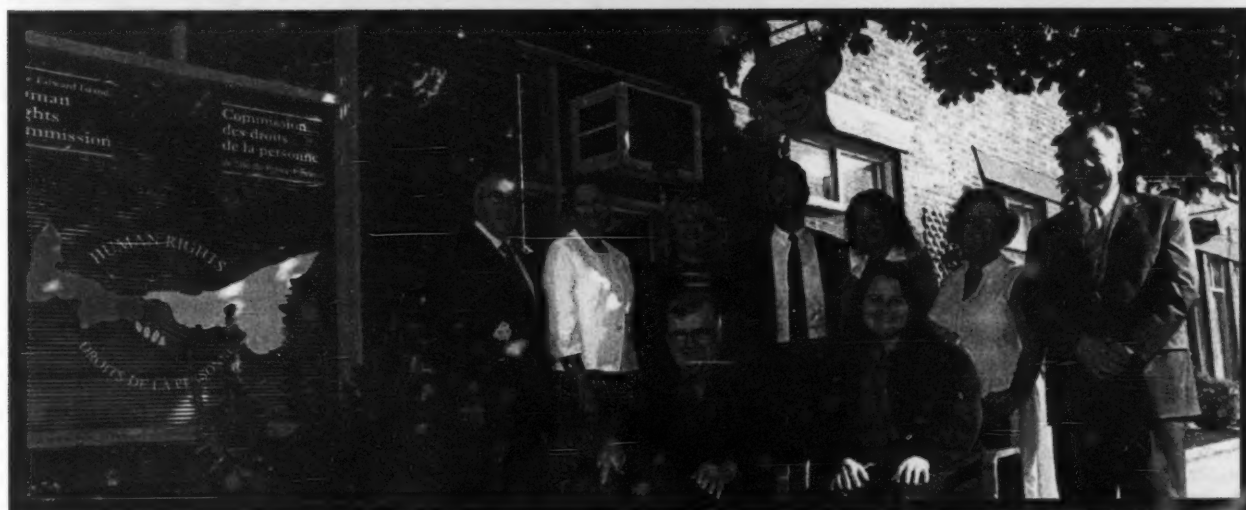


24th Annual Report

2006-2007



Prince Edward Island Human Rights Commission

53 Water Street • PO Box 2000
Charlottetown, PE C1A 7N8

(902) 368-4180 • Toll-free (PEI) 1-800-237-5031 • Fax (902) 368-4236

Website: www.peihumanrights.com • Email: peihr@isn.net

FRONT COVER PHOTO:

Standing - Commissioners Gerry O'Connell, Anne Nicholson, Lou Ann Thomson, Maurice Rio, Administrative/Intake Officer Lorraine Buell, Commissioner Ann Sherman and Executive Director Jim Hornby.

Seated - Chair Richard Montigny and Human Rights Officer Yolande Richard

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MESSAGE FROM THE CHAIR



I am pleased to have this opportunity to present my first report as Chair of the Prince Edward Island Human Rights Commission.

The past year has been another busy one for the Commission. During the past year we moved the Commission's office to new accessible facilities at 53 Water Street in Charlottetown. Our dedicated staff of three and six Commissioners continue to respond to the many and various responsibilities presented to them. Our goal continues to be the advancement of human rights in Prince Edward Island.

The summer of 2007 saw a major turnover in staff with the departure of Gregory Howard, our long-serving Executive Director, and Jacqueline O'Keefe, our Human Rights Officer, who moved on to other positions that will benefit from their legal and people skills. We thank them for their tireless efforts on behalf of the Commission and those it serves. I am pleased to report a smooth transition with the appointment of Jim Hornby as Executive Director, and Yolande Richard as Human Rights Officer. Both of these individuals bring a wide range of experience to the Commission. Our third staff member Lorraine Buell, Administrative/Intake Officer, ensures we have an efficient operation.

Our Commissioners continue to capably handle the challenges of Panel hearings and decision-writing, often in lengthy and complex proceedings. In the last year we spent 77 days on hearings and decision writing. With the Commission presently not having an Education Officer, it has fallen to Commissioners and staff to respond to the continuing requests for presentations on human rights and particular related issues. We encourage any group to contact the Commission's office should they have a need in this area.

Commissioners meet on a regular basis to oversee the Commission's work. Part of the mandate of Commissioners is to have in service training and to keep abreast of recent decisions in this area. As you can see from statistics in another section of this report, the majority of our complaints arise from employment and physical/mental disability related issues. However our changing society has made it necessary for us to be aware of the decisions of Tribunals and the Courts in both our own jurisdiction and across the country. These will impact on our Commission's decisions.

In closing I want to acknowledge the support I have received from our dedicated Commissioners and staff. Together we will continue to carry out our mandate of protecting the human rights on Prince Edward Island and educating Islanders on human rights issues.

Richard W. Montigny, Chair

COMMISSIONERS

The Commissioners are appointed by the Legislative Assembly on the recommendation of the Standing Committee on Social Development, and come from a variety of personal and professional backgrounds. Each brings experience and human rights expertise to decision-making, and provides leadership in setting the direction and promoting the work of the Commission.

Richard W. Montigny, Chair

Richard Montigny of Charlottetown was first appointed as a Commissioner on May 19, 2004. He was appointed Chair of the Commission on April 11, 2006, and reappointed on April 3, 2007. His term expires on May 19, 2010. Richard worked for many years as CEO with a PEI municipality and has extensive experience at the volunteer level. He currently serves as Secretary-Treasurer of the PEI Cerebral Palsy Association, is Chairman of the PEI Credit Union Deposit Insurance Corporation and is employed with the Legislative Assembly.

Anne Nicholson, Commissioner

Anne Nicholson of St. Andrews Pt. Lower Montague was appointed Commissioner on May 19, 2004. Commissioner Nicholson was reappointed on April 3, 2007. Her term expires on May 19, 2010. Anne is a consultant in the area of relationship violence prevention, health, culture and social justice.

Ann Sherman, Commissioner

Ann Sherman of Charlottetown was appointed Commissioner on May 19, 2004. Her appointment was renewed on April 11, 2006. Commissioner Sherman's term expires on May 19, 2009. Ann recently retired after 22 years work with Community Legal Information Association. She is continuing her involvement in social justice issues and her work on access to justice.

Maurice Rio, Commissioner

Maurice Rio of Summerside was appointed Commissioner on April 11, 2006. Commissioner Rio's term expires on April 11, 2009. Maurice returned to the Island after more than 21 years of Federal Government service in departments of the Solicitor General of Canada. He has served in Provinces and Territories from Coast to Coast.

Lou Ann Thomson, Commissioner

Lou Ann Thomson of Georgetown was appointed Commissioner on April 11, 2006. Commissioner Thomson's term expires on April 11, 2008. Lou Ann brings to the Commission her experiences as a nurse, a mother and a legal aid lawyer. She is committed to promoting the dignity of all persons.

Gerry O'Connell, Commissioner

Gerry O'Connell of Stratford was appointed Commissioner on April 11, 2006. Commissioner O'Connell's term expires on April 11, 2008. Gerry is retired after having served 35 years with the Public Service. Gerry's work experience includes extensive involvement with the dignity and rights of individuals and groups. He has also been involved with many community organizations and youth groups.



Executive Director: James J. (Jim) Hornby

Jim, a Charlottetown-based lawyer, brings to the Commission an extensive background in criminal and civil litigation law. He has practiced in the province over the past 16 years, most recently at Crane & Hornby. Jim is also a recognized author on the history of our Province and has been involved with many community organizations.



Human Rights Officer: Yolande S. Richard

Yolande, a native of Mont-Carmel, is a bilingual lawyer and has been a member of the PEI Law Society since 2004. Prior to coming to the Commission she practised law in the areas of litigation and real estate in Summerside. Yolande is active in Law Society committees, the Rotary Club and groups in the francophone community.



Administrative/Intake Officer: B. Lorraine Buell

Lorraine, Administrative/Intake Officer, came to the Commission in February 1998. She is a current member of the Canadian Payroll Association, the International Association of Administrative Professionals, and is a Commissioner of Oaths.

Former Staff Members

Gregory J. Howard, Former Executive Director

Greg served as Executive Director of the Prince Edward Island Human Rights Commission from November 10, 1999, to July 25, 2007.

Jacqueline R. O'Keefe, Former Human Rights Officer

Jacqueline served as Human Rights Officer for the Prince Edward Island Human Rights Commission from March 10, 2003, to June 18, 2007.

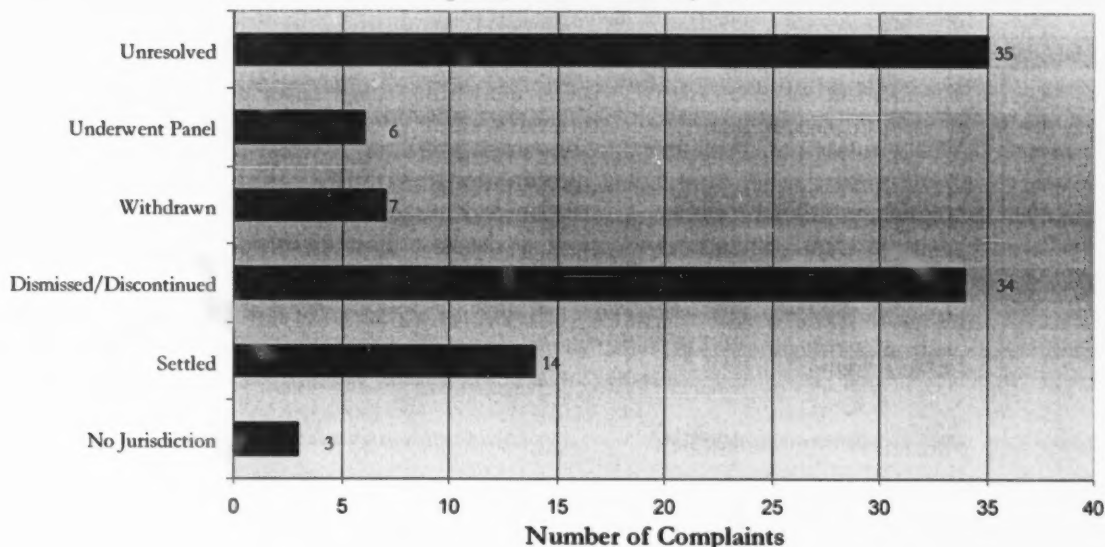
Note of Thanks

The present Chair and Commissioners would like to take this opportunity to thank Mr. Howard and Ms. O'Keefe for their contributions to the Prince Edward Island Human Rights Commission. We wish them every success in their new positions.

COMPLAINT STATISTICS

During the 2006-2007 fiscal year, the Commission conducted six panels of inquiry, seven complaints were withdrawn, thirty-four complaints were dismissed or discontinued, fourteen complaints were settled and three complaints were deemed to not be within the jurisdiction of the Prince Edward Island Human Rights Commission. At year end thirty-five complaints in various stages of the complaint process were carried over to the next fiscal year.

Complaint Outcomes
April 1, 2006 - March 31, 2007



Unresolved: Complaints under investigation, undergoing settlement negotiations or awaiting a panel hearing.

Panel: Complaints that went to a panel hearing.

Withdrawn: Complaints withdrawn by complainant or complaints considered withdrawn as complainant cannot be reached.

Dismissed or Discontinued: Complaints dismissed or discontinued by Executive Director or Chairperson as set out in the *Act* (s.22(4)).

Settled: Complaints settled without going to a panel hearing.

No Jurisdiction: Complaints filed that did not fall under the jurisdiction of the PEI *Human Rights Act*, including those complaints filed outside the one year limitation period.

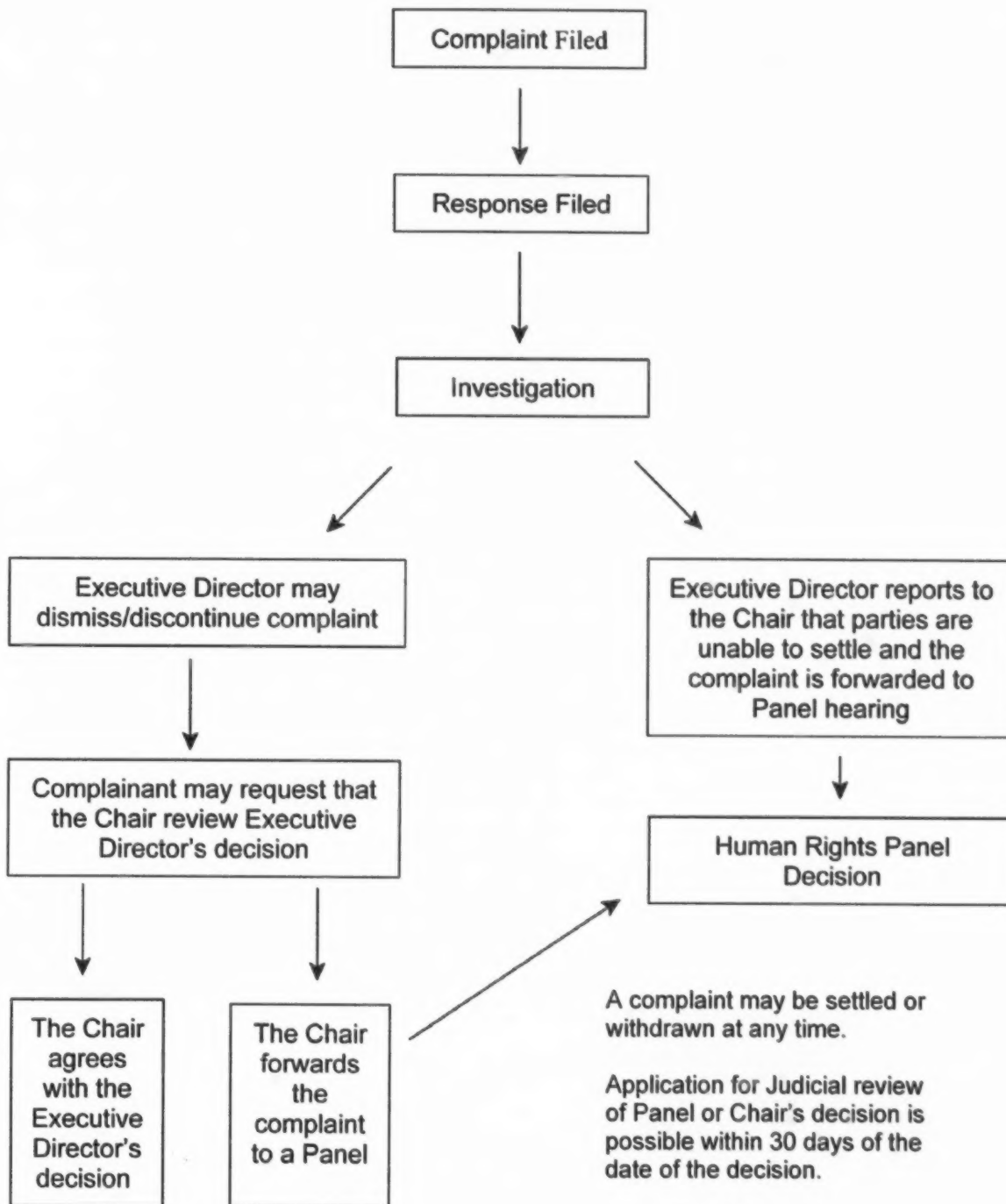
COMPLAINT STATISTICS

There were a total of ninety-nine active complaints throughout this fiscal year. There were thirty-eight unresolved complaints carried over from previous years, and sixty-one new complaints were filed in 2006-07. In addition to written complaints, the Commission receives close to 1200 phone inquiries annually from individuals concerned about their rights.

NUMBER OF COMPLAINTS IN AREA AND GROUND			
Ground of Discrimination	Employment	Other Areas	Total
Age	10	1	11
Association	1	1	2
Colour, Race, Ethnic/National Origin	6	1	7
Creed/Religion	0	0	0
Criminal Conviction	0	0	0
Family Status	2	1	3
Marital Status	0	0	0
Physical/Mental Disability	24	15	39
Political Belief	1	0	1
Sex/Gender (including Pregnancy and Harassment)	10	4	14
Sexual Orientation	4	0	4
Source of Income	0	0	0
Filing a Complaint/Giving Evidence	0	0	0
Multiple Grounds	8	10	18
Total Number of Complaints	66	33	99

As in previous years, most complaints arise in the area of employment (67%), while the most common grounds of discrimination are physical/mental disability (40%) and sex/gender (14%).

COMPLAINT PROCESS



SETTLEMENTS

The following summaries are examples of some of the human rights complaints that were settled during the 2006-2007 fiscal year:

Age

A young person filed a complaint against a store owner alleging discrimination in services on the basis of age. The store displayed a sign which limited the number of students allowed in the store. In a settlement reached by the parties, the Respondent agreed to replace the original sign with a new sign which limits the number of customers allowed in the store but shall not make any reference to age.

Disability

An employee filed a complaint against her employer alleging discrimination on the basis of disability. The employee was put on restricted work hours and times of work by her physician. The employer accommodated the employee for a period of time. The employee was later advised that if she was not able to return to flexible work hours, her seniority status would be removed and she would not be guaranteed her grandfathered full-time hours. In a settlement reached by the parties, the employer agreed to reinstate the employee's seniority and full-time status.

Disability and Sexual Orientation

An employee filed a complaint of discrimination against his employer alleging he was discriminated against on the basis of mental disability and perceived sexual orientation. His request to be reassigned to an alternate work site was denied and he subsequently went on Long Term Disability. In a settlement reached by the parties, the employer agreed to pay the employee lost wages, continue the Complainant's medical coverage and the Complainant shall continue to accrue pension benefits.

Sex

A man filed a complaint against a local retail store alleging discrimination on the basis of sex. The Complainant was denied registration for a course being offered at the store after hours because the women registered for the course did not want men to attend. In a settlement reached by the parties, the Complainant was allowed to register for the next course offered by the retailer.

PANEL HEARING DECISIONS

Tanya McIlwraith v. Eva's Restaurant & Lounge

Hearing Date: May 10, 2006

Date of Decision: June 6, 2006

Panel Members: Ann Sherman (Panel Chair),
Lou Ann Thomson, Gerry O'Connell

The complainant was a cook at a restaurant who became pregnant. She filed a complaint with the PEI Human Rights Commission on April 27, 2004, alleging that her employer failed to accommodate her by requiring her to work all evening shifts, and then terminated her job when she could not keep up.

The Human Rights Panel found that Ms. McIlwraith was not accommodated by her employer as the law requires, in particular that she was denied the opportunity to work during her pregnancy as long as she was able. The Panel awarded the complainant \$850 for her hurt and humiliation.

The Reverend Gael Matheson v. Presbytery of PEI and Others

Hearing Dates past fiscal year: January 23, 24 and 25, 2006

Date of Decision: August 22, 2006

Panel Members: Ann Sherman (Panel Chair),
Richard W. Montigny, Anne Nicholson

This decision was the culmination of a lengthy process involving a number of decisions and reviews of decisions that included two judicial reviews in the Supreme Court of PEI.

The Reverend Gael Matheson filed her complaint with the PEI Human Rights Commission on February 16, 1998, alleging

she was discriminated against in her employment as a church minister on the basis of gender. She alleged that she was the victim of a pattern of harassment dating back to 1986. She had not worked as a minister of the church since 1996 when her pastoral tie with the Murray Harbour North Presbyterian Pastoral Charge was severed, and her ministerial license withheld.

The Panel rejected the Respondent's position that the Complainant was responsible for the breakdown of the pastoral relationship, and found that discrimination had occurred as alleged.

Hearing Dates (re Remedies): February 26 and 27, 2007

Date of Decision: May 31, 2007

Panel Members: Ann Sherman (Panel Chair),
Richard W. Montigny, Anne Nicholson

The Panel having found, in a decision dated August 22, 2006, that the Reverend Matheson was subjected to differential treatment on the basis of gender, held a separate hearing on remedies – both monetary (damages and costs) and other forms of recompense were sought.

Non-monetary remedies ordered included the release of the complainant's ministerial license, a letter of apology, and a letter of reference (both of the latter two to be approved by the Panel).

Concerning the monetary claims, after looking at the constituent elements of the harassment experienced by the complainant, the Panel awarded \$50,000 in general damages.

PANEL HEARING DECISIONS

On the claim for loss of income, after considering the complainant's duty to reduce her loss by seeking other employment, (and reducing the award by 10 per cent due to a partial failure to pursue employment opportunities), the Panel awarded the sum of \$425,058.00 for loss of income during the years 1997-2006.

The Panel also ordered that the Reverend Matheson be reinstated to an alternate pastoral charge or other employment within the Presbyterian Church of Canada at the same salary. Some further monetary allowances, adjustments, taxes, and legal fees and costs were awarded to, if only in a financial sense, restore the Complainant to the position she would have been in but for the discrimination practiced.

**Murphy, Wonnacott, Douse and Bateman v.
Dep't Social Services**

Hearing Dates: January 30, 31, February 1,
April 25, 2007

Date of Decision: June 26, 2007

Panel Members: Lou Ann Thomson (Panel
Chair), Gerry O'Connell, Maurice Rio

Four individuals who filed complaints against the PEI Government's Disability Support Program (DSP) were heard together. They allege that the government, through the Respondent Department, discriminated against the complainants in the provision of services under the DSP. The grounds of discrimination alleged are age, family status, and physical and mental disability.

The issues before the Panel included whether the DSP screening tool discriminated against the mentally disabled as contrasted with the physically disabled. On this issue the Panel found that the screening tool in fact was weighted against the mentally disabled, and constituted discriminatory treatment. The Panel also agreed with the claim that income testing of parents with children under 18 does discriminate on the basis of age.

The Panel was unable to find that the support ceilings and lifelong caps on home and vehicle modifications under the DSP are discriminatory, because the Legislature has the authority to set up social programs with limits in order to distribute limited resources.

COURT DECISIONS

Dowling v. Gov't PEI and Angela Cormier 2006 PESCTD 42

A PEI Human Rights Panel found that Stephen Dowling was discriminated against by not being given the opportunity to compete for a golf shop position because of his political belief and association. Mr. Dowling applied for judicial review seeking a reconsideration of part of the Panel's decision on remedy, which the Panel had declined to grant.

The PEI Supreme Court held that procedural fairness required a separate hearing on remedy, which had been brought up before the Panel, with an opportunity for the parties to provide further evidence and submissions. The issue was referred back to the Panel to reconsider the decision on remedy.

Eastern School Board v. Montigny and Ayangma 2007 PESCTD 18

On December 8, 2005, a PEI Human Rights Panel issued a decision holding that Noel Ayangma had been discriminated against by the Eastern School Board on the basis of his race, colour, ethnic and national origin, and age. The Panel ordered the Eastern School Board to pay Mr. Ayangma \$55,000 plus interest for lost wages, and a further \$6,000 for hurt and humiliation.

The Board filed an application for judicial review of this decision, and Mr. Ayangma also applied for further relief.

Upon its review of the matter, the PEI Supreme Court upheld the Panel's decision, and dismissed both parties' applications to vary the decision. No costs were awarded.

FINANCIAL STATEMENTS

AUDITOR GENERAL

CHARLOTTETOWN
PRINCE EDWARD ISLAND

PRINCE EDWARD ISLAND
HUMAN RIGHTS COMMISSION
FINANCIAL STATEMENTS
MARCH 31, 2007

FINANCIAL STATEMENTS

AUDITOR GENERAL

CHARLOTTETOWN
PRINCE EDWARD ISLAND

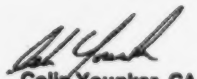
AUDITOR'S REPORT

To the Commissioners of the
Prince Edward Island Human Rights Commission

I have audited the balance sheet of the Prince Edward Island Human Rights Commission as at March 31, 2007 and the statements of revenue, expenditures, and surplus (deficit) and cash flows for the year then ended. These financial statements are the responsibility of the Commission's management. My responsibility is to express an opinion on these financial statements based on my audit.

I conducted my audit in accordance with Canadian generally accepted auditing standards. Those standards require that I plan and perform an audit to obtain reasonable assurance whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation.

In my opinion, these financial statements present fairly, in all material respects, the financial position of the Commission as at March 31, 2007 and the results of its operations and its cash flows for the year then ended in accordance with Canadian generally accepted accounting principles.


Colin Younker, CA
Auditor General

Charlottetown, Prince Edward Island
May 16, 2007

FINANCIAL STATEMENTS

STATEMENT 1

PRINCE EDWARD ISLAND HUMAN RIGHTS COMMISSION

BALANCE SHEET

AS AT MARCH 31, 2007

	<u>2007</u>	<u>2006</u>
ASSETS		
Current Assets		
Cash	\$ 6,557	\$ -
Accounts receivable		
- General	406	325
- Province of PEI	-	32,700
Prepays	<u>703</u>	<u>448</u>
	<u>\$ 7,666</u>	<u>\$33,471</u>
LIABILITIES AND SURPLUS (DEFICIT)		
Current Liabilities		
Bank advances	\$ -	\$ 6,258
Accounts payable	<u>18,845</u>	<u>6,971</u>
	18,845	13,229
Surplus (deficit) - Statement 2	<u>(11,179)</u>	<u>20,242</u>
	<u>\$ 7,666</u>	<u>\$33,471</u>

(The accompanying notes are an integral part of these financial statements.)

SIGNED ON BEHALF OF THE COMMISSION:

COMMISSIONER: Richard W. Montigny

COMMISSIONER: Rae Ann O'Connor

AUDITOR GENERAL - CHARLOTTETOWN, PEI

FINANCIAL STATEMENTS

STATEMENT 2

PRINCE EDWARD ISLAND HUMAN RIGHTS COMMISSION
STATEMENT OF REVENUE, EXPENDITURES, AND SURPLUS (DEFICIT)
FOR THE YEAR ENDED MARCH 31, 2007

	<u>2007</u>	<u>2006</u>
Revenue		
Provincial grant	<u>\$278,500</u>	<u>\$341,700</u>
Expenditures		
Commissioners' per diems - Note 4	28,944	23,530
Conferences and training	3,436	666
Furniture and equipment - Note 2	3,409	-
Memberships	2,926	2,915
Miscellaneous	4,277	978
Office maintenance, supplies and subscriptions	7,561	6,355
Photocopying	5,883	4,204
Rent	19,825	19,500
Salaries and benefits - Note 5	215,201	229,902
Travel - Staff	4,057	3,211
- Commissioners	8,893	3,448
Telephone	<u>5,479</u>	<u>4,899</u>
	<u>309,921</u>	<u>299,508</u>
 Excess revenue (expenditures) for the year	 (31,421)	 42,192
Surplus (deficit), beginning of year	<u>20,242</u>	<u>(21,950)</u>
Surplus (deficit), end of year	<u>\$ (11,179)</u>	<u>\$ 20,242</u>

(The accompanying notes are an integral part of these financial statements.)

FINANCIAL STATEMENTS

STATEMENT 3

PRINCE EDWARD ISLAND HUMAN RIGHTS COMMISSION

STATEMENT OF CASH FLOWS

FOR THE YEAR ENDED MARCH 31, 2007

	<u>2007</u>	<u>2006</u>
CASH FLOWS FROM OPERATING ACTIVITIES		
Cash received from Province of PEI for operations	\$311,200	\$309,000
Cash paid for salaries and benefits	(215,109)	(230,324)
Cash paid for materials and services	<u>(83,276)</u>	<u>(70,987)</u>
Net increase in cash	12,815	7,689
(Bank advances), beginning of year	<u>(6,258)</u>	<u>(13,947)</u>
Cash (bank advances), end of year	<u>\$ 6,557</u>	<u>\$ (6,258)</u>

(The accompanying notes are an integral part of these financial statements.)

AUDITOR GENERAL - CHARLOTTETOWN, PEI

FINANCIAL STATEMENTS

PRINCE EDWARD ISLAND HUMAN RIGHTS COMMISSION

NOTES TO FINANCIAL STATEMENTS

MARCH 31, 2007

1. Purpose of the Organization

The P.E.I. Human Rights Commission is a corporate body which is responsible for administering and enforcing the provincial Human Rights Act. The Commission provides education and public information in the field of human rights. The Commission also inquires into and endeavours to effect a settlement of any complaint of a violation of the Human Rights Act filed with the Commission as prescribed by the Act.

2. Significant Accounting Policy

Basis of Presentation

These statements were prepared in accordance with Canadian generally accepted accounting principles for non-profit organizations, with office equipment, furniture and computer software expensed in the year purchased. Furniture and equipment expensed for the year ended March 31, 2007 were \$3,409 (2006 - nil).

3. Lease Commitment

The Commission has entered into a five year operating lease of its office premises covering the period from July 1, 2006 to June 30, 2011. The Commission also leases a photocopier. The future minimum lease payments for both items are as follows:

<u>Fiscal Year</u>	<u>Amount</u>
2007/08	\$22,570
2008/09	22,570
2009/10	21,580
2010/11	19,600
2011/12	4,900
	<u>\$91,220</u>

4. Commissioners' Per Diems

Commissioners conduct panels of inquiry and for the year ended March 31, 2007 panel hearing per diems totalled \$10,049. The remaining amount was for Commission meetings, education presentations, training and seminars and other Commission business.

FINANCIAL STATEMENTS

PRINCE EDWARD ISLAND HUMAN RIGHTS COMMISSION

NOTES TO FINANCIAL STATEMENTS

MARCH 31, 2007

5. Salaries and Benefits

a) Pension Costs

The employees at the Commission participate in a defined contribution pension plan. The Commission makes contributions amounting to 6.95% on that part of the salary on which Canada Pension Plan contributions are made and 8.75% on salary when Canada Pension Plan contributions are not required. The employee is not required to match or contribute to the pension. These contributions are paid to a Registered Retirement Savings Plan (RRSP) as selected by the employee.

b) Vacation Pay and Retirement Allowances

Vacation pay is recorded as a liability when earned. For the year ended March 31, 2007 the vacation accrual was \$7,167 (2006 - \$7,074). Liabilities for retirement and severance are funded by the Province when payments are due. No liability for retirement/severance is recognized in these statements.

6. Fair Value of Financial Assets and Liabilities

The fair value of the Commission's cash, accounts receivable, bank advances, and accounts payable approximate their carrying values.

AUDITOR GENERAL - CHARLOTTETOWN, PEI



**The Prince Edward Island Human Rights Commission
is an independent, arms-length body
that investigates, attempts to settle and
makes rulings on complaints of discrimination
that fall under the
Prince Edward Island *Human Rights Act***